

REFERENCE TITLE: CORP; overtime pay

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2468

Introduced by
Representative Smith

AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 335, SECTION 8; REPEALING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 324, SECTION 1; REPEALING LAWS 2005, CHAPTER 324, SECTION 2; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by
3 Laws 2002, chapter 335, section 8, is amended to read:

4 **38-881. Definitions**

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition that
7 the local board finds totally and permanently prevents an employee from
8 performing a reasonable range of duties within the employee's department, was
9 incurred in the performance of the employee's duties and was the result of
10 any of the following:

11 (a) Physical contact with inmates, prisoners, parolees or persons on
12 probation.

13 (b) Responding to a confrontational situation with inmates, prisoners,
14 parolees or persons on probation.

15 (c) A job related motor vehicle accident while on official business
16 for the employee's employer. A job related motor vehicle accident does not
17 include an accident that occurs on the way to or from work. Persons found
18 guilty of violating a personnel rule, a rule established by the employee's
19 employer or a state or federal law in connection with a job related motor
20 vehicle accident do not meet the conditions for accidental disability.

21 2. "Accumulated member contributions" means the sum of all member
22 contributions deducted from a member's salary and paid to the fund, plus
23 member contributions transferred to the fund by another retirement plan
24 covering public employees of this state, plus previously withdrawn
25 accumulated member contributions which are repaid to the fund in accordance
with this article, minus any benefits paid to or on behalf of a member.

26 3. "Average monthly salary" means one-thirty-sixth of the aggregate
27 amount of salary paid a member by a participating employer during a period of
28 thirty-six consecutive months of service in which the member received the
29 highest salary within the last one hundred twenty months of service. Average
30 monthly salary means the aggregate amount of compensation paid a member
31 divided by the member's months of service if the member has less than
32 thirty-six months of service. In the computation under this paragraph, a
33 period of nonpaid or partially paid industrial leave shall be considered
34 based on the salary the employee would have received in the employee's job
35 classification if the employee was not on industrial leave.

36 4. "Beneficiary" means an individual who is being paid or who has
37 entitlement to the future payment of a pension on account of a reason other
38 than the individual's membership in the retirement plan.

39 5. "Claimant" means a member, beneficiary or estate that files an
40 application for benefits with the retirement plan.

41 6. "Credited service" means credited service transferred to the
42 retirement plan from another retirement system or plan for public employees
43 of this state, plus those compensated periods of service as a member of the
44 retirement plan for which member contributions are on deposit in the fund.

1 7. "Designated position" means:

2 (a) For a county:

3 (i) A county detention officer.

4 (ii) A nonuniformed employee of a sheriff's department whose primary
5 duties require direct contact with inmates.

6 (b) For the state department of corrections and the department of
7 juvenile corrections, only the following specifically designated positions:

8 (i) Food service.

9 (ii) Nursing personnel.

10 (iii) Corrections physician assistant.

11 (iv) Therapist.

12 (v) Corrections dental assistant.

13 (vi) Hygienist.

14 (vii) Corrections medical assistant.

15 (viii) Correctional service officer, including assistant deputy
16 warden, deputy warden, warden and superintendent.

17 (ix) State correctional program officer.

18 (x) Parole or community supervision officers.

19 (xi) Investigators.

20 (xii) Teachers.

21 (xiii) Institutional maintenance workers.

22 (xiv) Youth corrections officer.

23 (xv) Youth program officer.

24 (xvi) Behavioral health treatment unit managers.

25 (xvii) The director and assistant directors of the department of
26 juvenile corrections and the superintendent of the state educational system
27 for committed youth.

28 (xviii) The director, deputy directors and assistant directors of the
29 state department of corrections.

30 (xix) Other positions designated by the local board of the state
31 department of corrections or the local board of the department of juvenile
32 corrections pursuant to section 38-891, subsection E.

33 (c) For a city or town, a city or town detention officer.

34 (d) For an employer of an eligible group as defined in section 38-842,
35 full-time dispatchers.

36 8. "Employee" means a person determined by the local board to be
37 employed by a participating employer in a designated position.

38 9. "Employer" means an agency or department of this state or a
39 political subdivision of this state which has one or more employees in a
40 designated position.

41 10. "Fund" means the corrections officer retirement plan fund.

42 11. "Fund manager" means the fund manager of the public safety
43 personnel retirement system.

1 12. "Local board" means the retirement board of the employer that
2 consists of persons appointed or elected to administer the plan as it applies
3 to the employer's members in the plan.

4 13. "Member" means any employee who meets all of the following
5 qualifications:

6 (a) Who is a full-time paid person employed by a participating
7 employer in a designated position.

8 (b) Who is receiving salary for personal services rendered to a
9 participating employer or would be receiving salary except for an authorized
10 leave of absence.

11 (c) Whose customary employment is at least forty hours each week and
12 for more than six months in a calendar year.

13 14. "Normal retirement date" means the first day of the calendar month
14 immediately following an employee's completion of twenty years of service or,
15 in the case of a dispatcher, twenty-five years of service, the employee's
16 sixty-second birthday and completion of ten years of service or the month in
17 which the sum of the employee's age and years of credited service equals
18 eighty.

19 15. "Participating employer" means an employer which the fund manager
20 has determined to have one or more employees in a designated position or a
21 county, city or town which has entered into a joinder agreement pursuant to
22 section 38-902.

23 16. "Pension" means a series of monthly payments by the retirement
24 plan.

25 17. "Retired member" means an individual who is being paid a pension on
26 account of the individual's membership in the retirement plan.

27 18. "Retirement" means termination of employment after a member has
28 fulfilled all requirements for a pension.

29 19. "Retirement plan" or "plan" means the corrections officer
30 retirement plan established by this article.

31 20. "Salary" means the base salary or base wages, OVERTIME PAY, shift
32 differential pay and holiday pay paid a member in a designated position for
33 personal services rendered to a participating employer on a regular monthly,
34 semimonthly or biweekly payroll basis. Salary includes amounts that are
35 subject to deferred compensation or tax shelter agreements. Salary does not
36 include any remuneration or reimbursement other than as prescribed by this
37 paragraph.

38 21. "Service" means employment rendered to a participating employer as
39 an employee in a designated position. Any absence that is authorized by an
40 employer, including any periods during which the employee is on an employer
41 sponsored long-term disability program, is considered as service if the
42 employee returns or is deemed by the employer to have returned to a
43 designated position within the period of the authorized absence.

44 22. "Total and permanent disability" means a physical or mental
45 condition that is not an accidental disability, that the local board finds

1 totally and permanently prevents a member from engaging in any gainful
2 employment and that is the direct and proximate result of the member's
3 performance of the member's duty as an employee of a participating employer.

4 Sec. 2. Repeal

5 A. Section 38-881, Arizona Revised Statutes, as amended by Laws 2005,
6 chapter 324, section 1, is repealed.

7 B. Laws 2005, chapter 324, section 2 is repealed.

8 Sec. 3. Retroactivity

9 Section 38-881, Arizona Revised Statutes, as amended by Laws 2002,
10 chapter 335, section 8 and this act, applies retroactively to from and after
11 June 30, 2006.